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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,540	10/24/2003	Dany Sylvain	7000-271	2301

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WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

EXAMINER

PHUONG, DAI

ART UNIT PAPER NUMBER

2617

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/693,540

Applicant(s)

SYLVAIN, DANY

Examiner

Dai A. Phuong

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please See Attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____


DUC M. NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

ADVISORY ACTION

Response to Argument

Applicant, on page 3 to page 4 of his response, argues that Cardina does not teach or suggest providing a temporary number "during the call" to allow a wireless connection to be established with the dual mode mobile terminal via the wireless network. There is nothing in Cardina that discusses transitioning a call with a dual mode mobile terminal from a wireline network to a wireless network, or providing a temporary directory number during the call to allow a wireless connection to be established with the mobile terminal via the wireless network. However, the Examiner disagrees.

First, Cardina discloses a backup device 102 is generally connected to the landline connection 101 (wireline network) between the customer premises equipment 106 and the public switched telephone network (PSTN) 108 of the landline network 100 (fig. 1,col. 9, lines 1-15). Moreover, the backup device 102 communicates through a radio frequency or channel with a mobile telephone switching office (MTSO) 110 (wireless network) (fig. 1,col. 9, lines 16-25). The MTSO 110 connects to a home location register (HLR) 112. The HLR 112 is a location register where user identities and other user information can be stored in and retrieved from a database of user records. Information such as directory numbers, user profiles, locations, and validation period can be stored in the HLR 112. The HLR 112 and the MTSO 110 can be located at the same site or at remote points (fig. 1,col. 9, lines 28-34). Typically, a directory number, commonly referred to as a "telephone number", is assigned to each landline telephone connection serving a customer premises (fig. 1,col. 9, lines 44-53). The backup device 102 comprises a wireless communication device 206 that communicates with the mobile telephone

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switching office (MTSO) 110 through a channel (fig. 2, col. 11, lines 35-65). The backup device 102 detects landline telephone service interruptions to the customer premises equipment 106; and backup device 102 detects service interruptions using an interconnection circuit 204 that is connected to the landline connection 101 and to the customer premises equipment 106 (fig. 2, col. 11, lines 10-43). When a service interruption does occur, the customer cannot use the customer premises equipment 106 to receive calls, to send calls, or both receive and send calls to others in the public switched telephone network 108 (fig. 2, col. 11, lines 24-43. It is inherent that the backup device 102 detects the customer premises equipment 106 before and/or after and/or during the call). Upon detecting a failure condition (while the customer premises equipment 106 are before and/or after and/or during the call), the backup device 102 initiates wireless telephone service by powering a wireless communication device 206 (fig. 2, col. 11, lines 35-43). The wireless communication device 206 communicates with a mobile telephone switching office (MTSO) through a radio frequency (fig. 2, col. 11, lines 35-65). The wireless communication device 206 functionally establish a connection between the customer premises equipment 106 with the public switched telephone network (PSTN) 108 via the mobile telephone switching office (MTSO) 110 (fig. 2, col. 11, lines 35-65). Using well-known interface systems in the art, the wireless communication device 206 receives dialed directory numbers from the customer premises equipment 106, or transfers incoming wireless calls to the customer premises equipment 106 (fig. 2, col. 11, lines 35-65). These interface systems provide a relatively seamless communication link between the customer premises equipment 106 and the wireless communication device 206 (for more details, see col. 17, line 44 to col. 18, line 61).

Second, The applicant's attention is directed to the Applicant disclosure, at paragraph 29, as follows:

Continuing with FIG. 1, a high level process for accessing a temporary directory number and facilitating a transfer of a call to the mobile terminal 12 from the terminal adaptor 16 through the to the cellular access network 20 is provided. Initially, an incoming call intended for the mobile terminal 12 using directory number DN1 is connected to the terminal adaptor 16, which will facilitate bidirectional communications to support the call with the mobile terminal 12 (step A). At some point, either before the call, during the call, or when either the mobile terminal 12 or terminal adaptor 16 detects that the mobile terminal 12 is leaving the terminal adaptor zone 24, the mobile terminal 12 will initiate cellular registration via the cellular access network 20 (step B). The cellular registration may take place while the call via the terminal adaptor 16 is in progress, and as such, the mobile terminal 12 must be configured to facilitate wireless communications with the terminal adaptor 16 as well as communications with the cellular access network 20. Upon registration with the cellular access network 20, the mobile terminal 12 is assigned the temporary directory number by the wireless switch 18 or other appropriate entity, including the VLR 32. The temporary directory number must be provided to the wireline switch 14 to establish a connection with the mobile terminal 12 via the wireless switch 18 and the associated cellular access network 20.

Applicant, on page 3 to page 4 of his response, argues that The Patent Office has not supported the stated motivation to combine Cardina and Aretz with actual evidence. The Patent Office indicated that it would have been obvious to combine and Aretz "in order to switch independently between both network and switch onrequest by the mobile terminal." (Final Office Action mailed August 24, 2006, p. 9). The Patent then cites to an asserted advantage of the Aretz system (see Aretz, col. 3, lines 55-63). However, the cited advantage of Aretz has nothing to do with the stated motivation of being ableto switch independently between both network and switch on request by the mobile terminal. However, the Examiner disagrees. In response to applicant's argument, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when

the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Applicant, on page 6 to page 7 of his response, argues Bell does not teaching or suggestion of detecting degradation in quality, an inability to communicate with the mobile terminal, or a decrease in signal strength, as recited in claims 30-32. However, the Examiner disagrees. Bell discloses failure is be detected by the microprocessor when the handset can no longer communicate with the base station for exchanging control or other signals, indicated by the RSSI level received from both the cellular and cordless base stations and failure is detected by the loss of communication between the handset and the corresponding base station. However, the Applicant used a particular words recited in the claim, e.g. "degradation in quality", "an inability of communicate" and "decrease in signal strength". In response to the Argument, during patent examination, the pending claims must be given their broadest reasonable interpretation. In *re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In *re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550- 51 (CCPA 1969). The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. In *re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999). See MPEP 2111.